

Exhibit 3
Bill of Particulars

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
MARISOL JAVIER, as the Mother and Natural Guardian
of ANGEL JAVIER, an infant under the age of fourteen
(14) years, and MARISOL JAVIER, Individually

Index No.: 25643/2015

Plaintiffs

**VERIFIED BILL OF
PARTICULARS**

-against-

HYDE LEADERSHIP CHARTER SCHOOL, PETER
ANDERSON, JANE DOE TEACHER and NEW YORK
CITY DEPARTMENT OF EDUCATION

Defendants
-----X

Plaintiffs **MARISOL JAVIER**, as the Mother and Natural Guardian of **ANGEL JAVIER**, an infant under the age of fourteen (14) years, and **MARISOL JAVIER**, Individually, by their attorneys **JOSEPH A. MARIA, P.C.**, as and for their Verified Bill of Particulars in Response to Defendants Hyde Leadership Charter School, Peter Anderson and Jane Doe Teacher's Demand, upon information and belief states as follows:

1. 870 Southern Blvd., Apt. 1M, Bronx, New York 10459.
2. 870 Southern Blvd., Apt. 1M, Bronx, New York 10459.
3. Date of birth of Infant Plaintiff: 9/19/2007
Date of birth of Guardian Plaintiff: 3/31/76
4. and 5. Guardian Plaintiff S.S. #: [REDACTED]
6. Marisol Rosa
Marisol De La Cruz

7. a) Improper student bodily contacts occurred in September 2014. On October 9, 2014 a further assault which is the subject of this action occurred. Two (2) of the infant Plaintiff's classmates struck, hit,

punched and otherwise contacted his penis and scrotum, as part of ongoing bullying. The infant Plaintiff told his classroom teachers of the most recent bullying incident immediately after it had occurred (approximately 11:30 a.m.).

- b) Subsequent to the assaultive bullying incident (within days) the Plaintiff Guardian discussed the incident with the Assistant Director stated that the infant Plaintiff should not be interviewed by anyone other than NYPD and/or Special Social Worker. She indicated that she was to be present at any interview. Notwithstanding these instructions three (3) adult teachers / administrative interrogated the infant Plaintiff.

8. (d) and (e) The infant Plaintiff was struck, punched, slapped, hit or otherwise physically contacted by two (2) fellow students on his penis and scrotum. This offensive conduct has been preceded by similar offensive physical contact by the same students.

This contact resulted in immediate penis pain and discomfort. In addition the infant Plaintiff became emotionally distressed. However he reported the incident to his classroom teacher(s) who totally dismissed and discounted his report.

9. The offensive contact occurred in the infant Plaintiff's classroom with his teacher(s) present.

10. See responses to Demands No. 7 through 9.

11. The infant Plaintiff's classroom teachers (second grade) upon information and believe – Vierra / Watson.

12. The infant Plaintiff's classroom and other areas within defendant's school building.

13. Defendants failed to maintain timely, adequate and appropriate supervision, management and control over their students; failed to properly protect the infant Plaintiff from incidents of bullying; failed to prevent the infant Plaintiff's classmates from improper physical contact with his person.

14. The Defendant's administrators and teachers failed to provide proper, adequate and appropriate supervision of their students. As a result student bullying, including those physical contacts which the infant Plaintiff suffered in September 2014 and on October 9, 2014, were permitted and allowed to occur and continue.

15. The Defendants failed to provide adequate, proper, sufficient and timely protection to the infant Plaintiff; failed to prevent fellow students from engaging in acts of bullying, which involved their touching his genitalia; failed to promulgate and instruct proper and adequate, sufficient rules, regulations and instructions for both student and school personnel compliance in an effort to prevent bullying and unauthorized and abusive conduct among students, when they know or should have known of prior similar incidents of such offensive conduct; failed to provide proper and adequate on premises supervision of students; failed to assign proper, adequate and sufficient monitors; failure to properly and adequately respond to prior incidents of student bullying; failure to properly and adequately train, direct and instruct and supervise teachers and administration on the issue of school bullying, and failure to require its school personnel and students to comply with rules, directive and order promulgated by the New York City Department of Education and its own Administrative

which if followed would have prevented school bullying, including the incident which involved the infant Plaintiff on the part of the infant Plaintiff's classroom, teachers to pay adequate and proper attention to the behavior of his/their students; failure to see offensive behavior when it was in open view; failure to take proper adequate and timely steps to prevent an end to the bullying incident.

16. First names: Steven and Harlan.

17. The information requested is peculiarly within the Defendants' personal knowledge, specifically its administration and the infant Plaintiff's classroom teachers.

18. Both actual and constructive notice is claimed. Actual notice is based upon Defendant's administration and teachers being told of the bullying which occurred in the infant Plaintiff's classroom or which had occurred on previous occasions. Defendants are in possession of school records which demonstrate this actual notice. Constructive notice is based upon the Defendants' legal status as the infant Plaintiff's loco parenti. They knew or should have known of prior bullying incidents which involved the elementary student body generally and the infant Plaintiff particularly.

19. The infant Plaintiff sustained the following personal injuries:

- Induration to the shaft of his penis
- Penile swelling, redness, tenderness and sensitivity
- Penile pain and discomfort
- Penile bruising and discoloration
- Aggravation/exacerbation of Dhimosis condition requiring a painful circumcision performed on January 30, 2015
- Post circumcision complication

- Excessive penile scarring

In addition to the infant Plaintiff's physical injuries he sustained and continues to experience emotional and psychological damages which have required his receiving counseling.

20. All physical and emotional injuries are understood to be permanent in nature, except for those of a transient nature.

21. (a) – (c) The infant Plaintiff was bed/home confined, except for visits to medical, hospital, police and social workers for approximately one (1) week. He was released to return to school on October 16, 2014 and to attend class as tolerated. By reason of the bullying incident and the actions of the Defendant's teachers and administrators, the infant Plaintiff refused to return to the Charter School. He required a transfer to Athanasius School, 830 Southern Boulevard, Bronx, New York.

(d) and (e) The infant Plaintiff received medical treatment at the following location:

- CHAM – Pediatrician – ED, 111 E. 210 Street, Bronx, NY 10467
- Montefiore Hospital
- Amanda North, M.D., Montefiore Hospital, 111 E. 210th Street, Bronx, New York 10467
- Montefiore Butler Child Advocacy Center
- Hildred Machuca, M.D., 871 Prospect Avenue, Bronx, New York 10459

(f) The Plaintiff was the victim of repeated bullying incidents at Defendant's School in September, 2014 by the identified students. He was punched, slapped and otherwise contacted in the penis and scrotum. However the October 9, 2014 incident was the first time that he sustained physical injury

22. (a) and (b) Approximately \$500.00.

(c), (d) and (f) Not applicable.

(f) Private school tuition to date: approximately \$2,500.00 (continuing)

23. No EMS treatment on October 10, 2015 and circumcision procedure on January 30, 2015.

24. Yes.

25. • Personally responsible for the payment of hospital / medical expenses.
- Personally responsible for school tuition.
- Loss of the infant Plaintiff's company and companionship.
- Personal psychological trauma and emotional distress.

26. Improper Bill of Particulars demand. Plaintiff declines to respond.

27. To be provided under separate cover.

28. The Defendants are in possession of student conduct manuals and protocols which administration and teachers are required to observe upon receipt of student report of bullying incidents. These documents include manuals, protocol and anti-bullying instructions prepared by the New York State and New York City Departments of Education and Charter School.

Please be advised that the Plaintiffs reserve their right to supplement this Bill of Particulars upon receipt of information and documents which have been requested from the Defendants.

Dated: White Plains, New York
July 1, 2016

JOSEPH A. MARIA, P.C.

By: 

Edward A. Frey, Esq.

Attorneys for Plaintiffs

301 Old Tarrytown Road

White Plains, NY 10603

(914) 684-0333

File No.: 01-2195

TO: JANET O'CONNOR CORNELL, ESQ.
CORNELL GRACE, P.C.
Attorneys for Defendants HYDE LEADERSHIP
CHARTER SCHOOL, PETER ANDERSON and
JANE DOE TEACHER
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s/h/a NEW YORK CITY DEPARTMENT OF EDUCATION
100 Church Street
New York, NY 10007
(718) 503-5030
Law Department #: 2015-047617

NYSCEF DOC. NO. 19

RECEIVED NYSCEF: 01/03/2020

EDWARD FREY, ESQ.

I, the undersigned, am an attorney, admitted to practice in the courts of New York, and

☐ certify that the annexed

Attorney's has been compared by me with the original and found to be a true and complete copy thereof.

Certification

say that: I am the attorney of record, or of counsel with the attorney(s) of record, for Plaintiffs

☒ know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following. All facts contained in file.

By The reason I make this affirmation instead of Plaintiffs is that Plaintiffs reside outside the county wherein my offices are located..

Affirmation

I affirm that the foregoing statements are true under penalties of perjury.

Dated: July 1, 2016

STATE OF NEW YORK, COUNTY OF

ss:

being sworn says: I am

☐ in the action herein; I have read the annexed

Individual know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matter I believe them to be true.

Verification

the of

☐ a corporation, one of the parties to the action; I have read the annexed

Corporate know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true.

Verification

by

My belief, as those matters therein not stated upon knowledge, is based upon the following:

Sworn to before me on , 2016

(Print signer's name below signature)

Notary Public

STATE OF NEW YORK, COUNTY OF WESTCHESTER ss:

Jenny Chavarri being sworn says: I am not a party to the action, am over 18 years of age and reside at White Plains, New York.

On July 1, 2016, I served a true copy of the annexed **Verified Bill of Particulars****X** by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the state of New York, addressed to the last-known address of the addressee(s) as indicated below:

Service

By Mail

☐ by delivering the same personally to the person at the address indicated below:

Personal

Service

☐ by transmitting the same to the attorney by electronic means to the telephone number or other station or other limitation designated by the attorney for that purpose. In doing so I received a signal from the equipment of the attorney indicating that the transmission was received, and mailed a copy of same to that attorney, in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last-known address of the addressee(s) as indicated below:

Service by

Electronic

Means

☐ by depositing the same with an overnight delivery service in a wrapper properly addressed. Said delivery was made prior to the latest time designated by the overnight delivery. The address and delivery service are indicated below:

Overnight

Delivery

Service

TO: JANET O'CONNOR CORNELL, ESQ.
CORNELL GRACE, P.C.
Attorney for Defendants HYDE
LEADERSHIP CHARTER SCHOOL,
PETER ANDERSON & JANE DOE
TEACHER
111 Broadway - Suite 810
New York, NY 10006ZACHARY W. CARTER, ESQ.
CORPORATION COUNSEL
Attorneys for Defendant THE BOARD/
DEPARTMENT OF EDUCATION OF THE
CITY OF NEW YORK s/h/a NEW YORK
CITY DEPARTMENT OF EDUCATION
100 Church Street
New York, NY 10007

Sworn to before me on July 1, 2016

Rose Alice Monik
Notary PublicROSE ALICE MONIK
Notary Public, State of New York
No. 01M0545373
Qualified in Rockland County
Commission Expires Aug 31, 2011Jenny Chavarri
Jenny Chavarri

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

MARISOL JAVIER, as the Mother and Natural Guardian of ANGEL JAVIER, an infant under the age of fourteen (14) years, and MARISOL JAVIER, Individually

Plaintiffs

-against-

HYDE LEADERSHIP CHARTER SCHOOL, PETER ANDERSON, JANE DOE TEACHER and NEW YORK CITY DEPARTMENT OF EDUCATION

Defendants.

VERIFIED BILL OF PARTICULARS

JOSEPH A. MARIA, P.C.

Attorney(s) for Plaintiffs

File No.: 01-2195(jc)

301 OLD TARRYTOWN ROAD
WHITE PLAINS, NEW YORK 10601
(914) 684-0333

Pursuant to 22 NYCRR 130-1.1. the undersigned, an attorney admitted to practice in the courts of New York State, certified that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated:.....

Signature.....

Print Signer's Name.....

Service of a copy of the within

is hereby admitted.

Dated:

.....
Attorney(s) for

PLEASE TAKE NOTICE



that the within is a (certified) true copy of a

NOTICE OF
ENTRY

entered in the office of the clerk of the within name Court on

, 2009



that an Order of which the within is a true copy will be presented for settlement to the

NOTICE OF
SETTLEMENT

Hon.
at

One of the judges of the within named Court,
, at M.

20

Dated:

JOSEPH A. MARIA, P.C.

Attorney(s) for

To:

301 OLD TARRYTOWN ROAD
WHITE PLAINS, NEW YORK 10603
(914) 684-0333

Attorney(s) for